

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LIBERTY MUTUAL INSURANCE COMPANY,

Plaintiff,

-against-

D'ELIA EXPRESS, INC.,

Defendant.

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ORDER

06-CV-1398 (NGG)(WDW)

GARAUFIS, District Judge.

On May 23, 2006 Magistrate Judge William D. Wall issued a Report and Recommendation (“R&R”) in the above-captioned action recommending that the Plaintiff be awarded judgment in the amount of \$179, 305.00, plus interest at the New York statutory rate of 9% per annum in the amount of \$40,000, along with the \$337.50 in costs. No objections to the R&R have been timely filed.

In reviewing an R&R, this court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). In order to accept a Magistrate Judge’s R&R where no timely objection has been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); see also Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”).

The court finds no clear error in the R&R's analysis and therefore adopts the R&R's calculations for damages to be awarded to the Plaintiff. There is, however, a mathematical error in the R&R's calculation of the *total* judgment to be awarded. The R&R incorrectly states that the awards of \$179,305.00 in damages, \$40,000.00 in statutory interest, and \$337.50 in costs result in a total damages award of \$47,962.90. This court has confirmed that this was merely a typographical error on the part of Magistrate Judge Wall. The correct total damages award calculation is \$219,642.50. The court therefore adopts the R&R for the reasons stated therein, except to the extent that the Plaintiff will awarded damages totaling \$219,642.50, plus post-judgment interest at the applicable statutory rate.

SO ORDERED.

Dated: June 19, 2006
Brooklyn, N.Y.

/s/
Nicholas G. Garaufis
United States District Judge